

# Nicotine Taxation

## Overview of Senate Bill 65

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Presentation to the Tobacco Settlement Revenue Oversight Committee

# SB 65

## Regulation & Labeling of Nicotine Products

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- ▶ During the last legislative session SB 65 was designed to amend the Tobacco Products Tax Act – to impose a tax on specific nicotine products and delivery devices and to require nicotine content labeling on products as well as containers of liquid that contain nicotine.

# SB 65 Specifics

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- ▶ Impose an excise tax on nicotine products manufactured or acquired in the state of New Mexico and consumed.
- ▶ Excise tax rate proposed: \$0.04 per milligram of nicotine contained in the nicotine product.
- ▶ Proposed tax on e-cigarette solution at parity with cigarettes based on an assumption that cigarettes contain approximately 2mg of nicotine.
- ▶ Require nicotine product manufacturers to identify nicotine content in milligrams for each unit sold.
- ▶ Required TRD to conduct periodic compliance checks of nicotine content reporting by sending retail sale samples to the Scientific Lab Division of DOH for testing.
- ▶ Required sellers of nicotine products to register with the state and retain records of sales.
- ▶ Define 'nicotine product' as a liquid solution containing nicotine that is intended for human consumption via an electronic delivery device.
- ▶ Define 'electronic delivery device' as any electronic device, whether composed of a heating element and battery or an electronic circuit that provides a vapor of nicotine, the use or inhalation of which simulates smoking.

# SB 65 Fiscal Aspects

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- ▶ In 2013, the e-cigarette industry recorded \$1 billion in revenue nationwide with an average growth of approximately 120% over the past 6 years.
- ▶ Assumptions:
  - ▶ Part of the decline in cigarette volume is due to an uptake in e-cigarette consumption and part is due to smoking cessation.
  - ▶ One cigarette contains approximately 2 milligrams of nicotine.
  - ▶ E-cigarette industry to grow at a rate of 10-25% per year in New Mexico. A conservative growth rate compared with annual national growth, ranging between 95-156% over the last 6 yrs.

# SB 65

## Administrative Implications & Issues

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- ▶ High administrative impact:
  - ▶ Costly public education needs and difficult implementation because of the limited amount of time allowed for preparing forms, instructions, educational materials, etc.
  - ▶ Start up costs related for set up and payments processing
  - ▶ Recurring costs, hiring additional FTEs for TRD and DOH.
  - ▶ Technical issues: clarification on collection of samples, manufacturer versus retailer definitions.
- ▶ Other issues of e-cigarettes:
  - ▶ Don't know the potential risks when used as intended.
  - ▶ How much nicotine or other potential harmful chemicals are inhaled during use.
  - ▶ Whether there are any benefits associated with using these products.
  - ▶ Unknown whether e-cigarettes may lead young people to try other tobacco products, including conventional cigarettes, which are known to cause disease and lead to premature death.